

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION  
MARCH 2023 SESSION

UNITED STATES OF AMERICA )

Criminal No. 7:23CR15

v. )

**SEALED  
INDICTMENT**

JAMES HOWARD SPENCER )

**In Violation of:**

) 33 U.S.C. § 1311(a)

) 33 U.S.C. § 1319

) 18 U.S.C. § 2(b)

**INDICTMENT**

The Grand Jury charges that:

**INTRODUCTION**

At all relevant times to this Indictment:

1. Defendant J. HOWARD SPENCER was the mayor of the Town of Glen Lyn, Virginia.

2. The Federal Water Pollution Control Act, Title 33, United States Code, Section 1251 et. seq. (hereinafter referred to as the "Clean Water Act"), was enacted by Congress to restore and maintain the chemical, physical and biological quality of the nation's waters.

3. The Clean Water Act (CWA), and the regulations promulgated pursuant thereto, prohibited the discharge of any pollutant from a point source into the waters of the United States except in compliance with a permit issued pursuant to the Clean Water Act

under the National Pollution Discharge Elimination System (NPDES) by the United States Environmental Protection Agency (EPA) or an authorized state, 33 U.S.C. §§ 1311(a) and 1342.

4. The EPA delegated the NPDES program to the State of Virginia in May 1975, *see* 40 Fed. Reg. 20129 (May 8, 1975). Thereafter, and at all relevant times, the program in Virginia was administered by the Virginia Department of Environmental Quality (VADEQ), subject to oversight by the EPA.

5. Pursuant to the delegation of authority, the VADEQ issued an NPDES permit, no. VA0080837, to the Town of Rich Creek for the Glen Creek Wastewater Treatment Plant (WWTP) on May 7, 2019. This permit authorized the operation of a publicly owned treatment works for the collection and treatment of domestic waste and sewage.

6. The Glen Creek WWTP, including the collection lines, was jointly owned and operated by the Town of Rich Creek and the Town of Glen Lyn.

7. The CWA required the owners and operators of the WWTP to comply with all terms and conditions of the NPDES Permit. Permit conditions included, among other things, limits to the type and amount of pollutants that could be discharged, specified authorized discharge locations, and operation and maintenance requirements.

8. The CWA made it a crime for any person to knowingly violate any condition of a CWA NPDES permit. 33 U.S.C. §§ 1319(c)(2)(A), (c)(6).

9. The NPDES permit for the WWTP designated a specific outlet (001) for discharges from the sewage system of treated sewage into the New River. *Permit, Part I,*

*Section A.* All other discharges of sewage or any other pollutant were prohibited. *Permit, Part II, Section F.* Any unauthorized discharges were required to be reported immediately (no later than 24 hours) to VADEQ. *Permit, Part II, Section G.* In addition, a detailed written report of any unauthorized discharges was required to be submitted to VADEQ within five days of the discovery of the discharge. *Id.*

10. Defendant J. HOWARD SPENCER directed employees of the Town of Glen Lyn to pump sewage and other pollutants from the pump station behind the Glen Lyn post office and discharge the sewage and other pollutants into the East River on various dates, including, the summer of 2019, December 2020 and June 2021. The East River is a perennial stream and a tributary of the New River, a traditionally navigable water.

11. Defendant J. HOWARD SPENCER failed to notify VADEQ of the discharges from the pump station in the sewage collection line into the East River.

#### **COUNT ONE**

(Knowing Violation of Permit Condition Prohibiting Discharges from the WWTP System from Unauthorized Locations)

The Grand Jury further charges:

12. Paragraphs 1 through 11 of the Indictment are hereby realleged and incorporated as if fully set forth herein.

13. In or around Summer 2019, at or near Glen Lyn, Giles County, Virginia, within the Western District of Virginia, defendant J. HOWARD SPENCER did knowingly violate or cause to be violated a condition of NPDES no. VA0080837 (*Permit, Part II, Section F*) which prohibited the discharge of sewage or other pollutants from any location in the Glen Creek

WWTP system other than the designated outlet, permit conditions which implemented the Clean Water Act, including the provisions located at 33 U.S.C. § 1311(a).

All in violation of Title 33, United States Code, Sections 1311(a) and 1319(c)(2)(A).

**COUNT TWO**

(Knowing Violation of Permit Condition Prohibiting Discharges from the WWTP System  
from Unauthorized Locations)

The Grand Jury further charges:

14. Paragraphs 1 through 11 of the Indictment are hereby realleged and incorporated as if fully set forth herein.

15. In or around December 2020, at or near Glen Lyn, Giles County, Virginia, within the Western District of Virginia, defendant J. HOWARD SPENCER did knowingly violate or cause to be violated a condition of NPDES no. VA0080837 (*Permit, Part II, Section F*) which prohibited the discharge of sewage or other pollutants from any location in the Glen Creek WWTP system other than the designated outlet, permit conditions which implemented the Clean Water Act, including the provisions located at 33 U.S.C. § 1311(a).

All in violation of Title 33, United States Code, Sections 1311(a) and 1319(c)(2)(A).

**COUNT THREE**

(Knowing Violation of Permit Condition Prohibiting Discharges from the WWTP System  
from Unauthorized Locations)

The Grand Jury further charges:

16. Paragraphs 1 through 11 of the Indictment are hereby realleged and incorporated as if fully set forth herein.

17. In or around June 2021, at or near Glen Lyn, Giles County, Virginia, within the

Western District of Virginia, defendant J. HOWARD SPENCER did knowingly violate or cause to be violated a condition of NPDES no. VA0080837 (*Permit, Part II, Section F*) which prohibited the discharge of sewage or other pollutants from any location in the Glen Creek WWTP system other than the designated outlet, permit conditions which implemented the Clean Water Act, including the provisions located at 33 U.S.C. § 1311(a).

All in violation of Title 33, United States Code, Sections 1311(a) and 1319(c)(2)(A).

A TRUE BILL this 9 day of March 2023.

s/FOREPERSON  
FOREPERSON



CHRISTOPHER R. KAVANAUGH  
UNITED STATES ATTORNEY